

BILL HISTORY FOR ASSEMBLY BILL 52 (LRB -0635)

An Act to renumber and amend 786.37; to amend 786.36 (1) (intro.), 786.36 (1) (b), 786.36 (1) (c) and 786.37 (title); and to create 786.36 (1m) and 786.37 (2) of the statutes; relating to: changing the name of a minor.
2003

- 02-13. A. Introduced by Representatives Foti, Van Roy, Lassa, Montgomery, Olsen, M. Lehman, Hahn, Stone, Ward, Jeskewitz, Ladwig, Hines, Owens, Musser, Ainsworth, Hundertmark, Gunderson, Ott, Kreibich, Huebsch, Townsend and Colon; cosponsored by Senators Wirch, Roessler and Risser.
- 02-13. A. Read first time and referred to committee on Children and Families 61
- 04-17. A. Public hearing held.
- 05-28. A. Executive action taken.
- 05-28. A. Report passage recommended by committee on Children and Families, Ayes 8, Noes 0 217
- 05-28. A. Referred to committee on Rules 217
- 05-29. A. Placed on calendar 6-3-2003 by committee on Rules.
- 06-04. A. Read a second time 236
- 06-04. A. Ordered to a third reading 236
- 06-04. A. Rules suspended 236
- 06-04. A. Read a third time and passed 236
- 06-04. A. Ordered immediately messaged 236
- 06-05. S. Received from Assembly 217
- 06-05. S. Read first time and referred to committee on Judiciary, Corrections and Privacy 217
- 08-26. S. Public hearing held.
- 08-27. S. Executive action taken.
- 09-03. S. Report concurrence recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0 353
- 09-03. S. Available for scheduling.
- 09-18. S. Placed on calendar 9-23-2003 by committee on Senate Organization.
- 09-23. S. Read a second time.
- 09-23. S. Ordered to a third reading.
- 09-23. S. Rules suspended.
- 09-23. S. Read a third time and concurred in.
- 09-23. S. Ordered immediately messaged.
- 09-23. A. Received from Senate concurred in 368

2003
ENROLLED BILL

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ADOPTED DOCUMENTS:

☒ Orig ☐ Engr SubAmdt

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Amendments to above (if none, write "NONE"): none

Corrections - show date (if none, write "NONE"): none

Topic Changing the name of a minor

9/24/03 [Signature]
Date Enrolling Drafter

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2003 ASSEMBLY BILL 52

February 13, 2003 - Introduced by Representatives FOTI, VAN ROY, LASSA, MONTGOMERY, OLSEN, M. LEHMAN, HAHN, STONE, WARD, JESKEWITZ, LADWIG, HINES, OWENS, MUSSER, AINSWORTH, HUNDERTMARK, GUNDERSON, OTT, KREIBICH, HUEBSCH, TOWNSEND and COLON, cosponsored by Senators WIRCH, ROESSLER and RISSER. Referred to Committee on Children and Families.

- 1 **AN ACT to renumber and amend 786.37; to amend 786.36 (1) (intro.), 786.36**
2 **(1) (b), 786.36 (1) (c) and 786.37 (title); and to create 786.36 (1m) and 786.37**
3 **(2) of the statutes; relating to: changing the name of a minor.**

Analysis by the Legislative Reference Bureau

Under current law, a resident of this state, in order to change his or her name, must petition the circuit court for an order changing that name. If the person whose name is to be changed is a minor under 14 years of age, both parents of the minor, if living, must file the petition. Before applying to the court for a name change, the petitioner must publish a legal notice of the application once each week for three consecutive weeks in a newspaper that is likely to give notice to persons affected by the name change.

This bill permits the circuit court to change the name of a minor under 14 years of age who has two living parents on the petition of one parent if the petitioning parent, in addition to filing proof of publication of the notice as required under current law, also files proof that the petitioning parent served a copy of the notice and petition on the nonpetitioning parent and the nonpetitioning parent does not appear at the hearing or otherwise answer the petition. If the nonpetitioning parent cannot be found or provided with notice, the petitioning parent must also file an affidavit showing that the petitioning parent has made a reasonable attempt to find and provide notice to the nonpetitioning parent, but with reasonable diligence the nonpetitioning parent cannot be found or provided with notice. If the nonpetitioning parent appears at the hearing or otherwise answers the petition and shows that he

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or she has not abandoned the minor or failed to assume parental responsibility for the minor, the court may order the name change only if the nonpetitioning parent consents.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 786.36 (1) (intro.) of the statutes is amended to read:

2 786.36 (1) (intro.) Any resident of this state, whether a minor or adult, may
3 upon petition to the circuit court of the county where he or she resides and upon filing
4 a copy of the notice, ~~with proof of publication, as required by~~ under s. 786.37 (1), with
5 proof of publication, may, if no sufficient cause is shown to the contrary, have his or
6 her name changed or established by order of the court. If Subject to sub. (1m), if the
7 person whose name is to be changed is a minor under the age of 14 years, the petition
8 may be made by whichever of the following is applicable:

9 **SECTION 2.** 786.36 (1) (b) of the statutes is amended to read:

10 786.36 (1) (b) The guardian or person having legal custody of the minor, if both
11 parents are dead or if the parental rights of both parents have been terminated by
12 judicial proceedings.

13 **SECTION 3.** 786.36 (1) (c) of the statutes is amended to read:

14 786.36 (1) (c) The minor's mother, if the minor is a nonmarital child who is not
15 adopted or whose parents do not subsequently intermarry under s. 767.60, ~~except~~
16 ~~that the father must also make the petition unless his rights have been legally~~
17 ~~terminated and if paternity of the minor has not been established.~~

18 **SECTION 4.** 786.36 (1m) of the statutes is created to read:

19 786.36 (1m) (a) 1. Subject to subd. 2., the name of a minor under 14 years of
20 age who has 2 living parents may be changed on the petition of one parent if, in

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1 addition to filing a copy of the notice required under s. 786.37 (1), with proof of
2 publication, the petitioning parent files proof of service as required under s. 786.37
3 (2) and the nonpetitioning parent does not appear at the hearing on the petition or
4 otherwise answer the petition.

5 2. If the nonpetitioning parent cannot be found or provided with notice, the
6 name of a minor under 14 years or age who has 2 living parents may be changed on
7 the petition of one parent if, in addition to meeting the filing requirements under
8 subd. 1., the petitioning parent has made a reasonable attempt to find and provide
9 notice to the nonpetitioning parent, but with reasonable diligence the nonpetitioning
10 parent cannot be found or provided with notice, and the nonpetitioning parent does
11 not appear at the hearing or otherwise answer the petition.

12 (b) If the nonpetitioning parent appears at the hearing on the petition or
13 otherwise answers the petition and shows that he or she has not abandoned the
14 minor, as described in s. 48.415 (1) (a) 3., (b), and (c), or failed to assume parental
15 responsibility for the minor, as described in s. 48.415 (6), the court shall require the
16 consent of the nonpetitioning parent before changing the name of the minor.

17 **SECTION 5.** 786.37 (title) of the statutes is amended to read:

18 **786.37 (title) Change of name, notice of application petition.**

19 **SECTION 6.** 786.37 of the statutes is renumbered 786.37 (1) and amended to
20 read:

21 786.37 (1) ~~Before applying to petitioning the court for changing or establishing~~
22 ~~to change or establish~~ a name, the applicant petitioner shall publish a class 3 notice
23 under ch. 985 stating the nature of the application petition and when and where the
24 application petition will be made heard.

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(3) This section does not apply to the name change of a minor if the parental rights to the minor of both parents have been terminated ~~and~~, guardianship and legal custody of the minor have been transferred under subch. VIII of ch. 48, ~~and~~ the minor has been placed in a permanent foster home or a permanent treatment foster home, ~~where~~ and the guardian and legal custodian of the minor have petitioned to change the minor's name to the name or names of the minor's foster parents or treatment foster parents.

SECTION 7. 786.37 (2) of the statutes is created to read:

786.37 (2) If the petition is for the name change of a minor under 14 years of age who has 2 living parents and if the petition is being made by one parent of the minor, the petitioner shall, in addition to publishing the notice under sub. (1), serve a copy of the notice and petition on the nonpetitioning parent in the same manner as a summons is served under s. 801.11 (1).

SECTION 8. Initial applicability.

(1) This act first applies to petitions for name changes that are filed on the effective date of this subsection.

(END)